

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAPNA IP CAPITAL LLC,

Plaintiff,

v.

ETZ HAYIM HOLDINGS, S.P.C.,

Defendant.

C23-0281 TSZ

MINUTE ORDER SETTING
TRIAL DATE AND RELATED
DEADLINES

CAPNA IP CAPITAL LLC,

Plaintiff,

v.

ROOT SCIENCES LLC,

Defendant.

C23-282 TSZ

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Having reviewed the parties' Joint Status Reports in these matters, as well as the pleadings, the Court concludes that, because these cases involve the same patents-in-suit, namely United States Patents Nos. 10,507,407 and 10,814,248, the actions should be set on the same track toward trial. To be clear, however, the Court is not consolidating the cases, and if both matters need to be tried, the Court will solicit input from the parties before deciding the sequence and manner in which the trials will be conducted.

(2) The Court further concludes that the goals of efficiency and economy will be served if the parties share discovery between the cases. The Court therefore ORDERS that any deposition conducted in one of these matters may be used in the other action in the same fashion and for the same purposes that it could be used in the matter in which it was taken, provided that all parties were represented during the course of the deposition.

(3) The Court hereby SETS the following trial date and related deadlines:

JURY TRIAL DATE (5 days) October 28, 2024

Statement of asserted claims and preliminary infringement contentions due September 1, 2023

Statement of preliminary non-infringement and invalidity contentions due October 2, 2023

Deadline for joining additional parties October 12, 2023

Parties to exchange preliminary proposed constructions of disputed claim terms and provide list of proposed extrinsic evidence November 20, 2023

Joint Claim Chart and Prehearing Statement due January 5, 2024

Parties to disclose reports from expert witnesses, if any, regarding Markman issues January 5, 2024

Parties to disclose rebuttal expert reports, if any, regarding Markman issues February 5, 2024

Deadline for completion of claim construction discovery and for amending pleadings February 29, 2024

Opening claim construction briefs filed by (and noted for the date that the responsive claim construction briefs are due) March 7, 2024

Responsive claim construction briefs filed by March 22, 2024

If a claim construction (Markman) hearing is necessary, one will be set upon at least 20 days' notice to the parties.

Reports from expert witnesses under FRCP 26(a)(2) due April 8, 2024

Rebuttal expert reports due May 8, 2024

All discovery motions must be filed by (and noted on the motion calendar no later than the third Friday thereafter) May 30, 2024

Discovery completed by July 8, 2024

1	All dispositive motions must be filed by	
2	(and noted on the motion calendar no later than the	August 8, 2024
	fourth Friday thereafter; <u>see</u> LCR 7(d))	
3	All motions related to expert witnesses	
	(<i>e.g.</i> , Daubert motion) must be filed by	August 15, 2024
4	and noted on the motion calendar no later	
	than the third Friday thereafter (see LCR 7(d))	
5	All motions <i>in limine</i> must be filed by	
	(and noted on the motion calendar for the Friday before	September 26, 2024
6	the Pretrial Conference)	
7	Agreed pretrial order due	October 11, 2024
8	Trial briefs, proposed voir dire questions, proposed jury	
	instructions, and trial exhibits due	October 11, 2024
9	Pretrial Conference	at 10:00 a.m. on October 18, 2024

(4) All other dates are specified in the Federal Rules of Civil Procedure, the Local Civil Rules, and the Local Patent Rules. These are firm dates that can be changed only by order of the Court, not by agreement of counsel or the parties. The Court will alter these dates only upon good cause shown: failure to complete discovery within the time allowed is not recognized as good cause.

(5) If the trial date or other deadlines assigned to this matter create an irreconcilable conflict, counsel must notify Judge Zilly's Chambers at (206) 370-8830, within 14 days of the date of this Minute Order and explain the exact nature of the conflict. A failure to do so will be deemed a waiver. Counsel must be prepared to begin trial on the date scheduled, but should understand that the trial might have to await the completion of other cases.

1 (6) Claim Construction (Markman) Hearing

2 The claim construction hearing, if any, will be set for a half-day (2.5 hours). If
3 more or less time is required, the parties are instructed to inform Judge Zilly's Chambers
4 at (206) 370-8830.

5 PLEASE NOTE: The Court will not rule on dispositive motions that raise issues
6 of claim construction prior to the Markman Hearing, unless special circumstances
7 warrant doing so and leave of Court is obtained in advance of filing such motions.

8 (7) Exhibits and Exhibit Lists

9 The original and one copy of any exhibits to be used at the Markman Hearing
10 and/or during trial are to be delivered to the Court at least three (3) business days before
11 the hearing and/or trial date at a time coordinated with Courtroom Deputy Clerk Laurie
12 Cuaresma, who can be reached at (206) 370-8521.

13 Notwithstanding Local Civil Rule 16.1, the exhibit list shall be prepared in table
14 format with the following columns: "Exhibit Number," "Description," "Admissibility
15 Stipulated," "Authenticity Stipulated/Admissibility Disputed," "Authenticity Disputed,"
16 and "Admitted." The latter column is for the Clerk's convenience and shall remain
17 blank, but the parties shall indicate the status of an exhibit's authenticity and
18 admissibility by placing an "X" in the appropriate column. Duplicate documents shall
19 not be listed twice: once a party has identified an exhibit in the pretrial order, any party
20 may use it.

21 Each set of exhibits shall be submitted in a three-ring binder with appropriately
22 numbered tabs. Each exhibit shall be clearly marked. Plaintiff's exhibits shall be

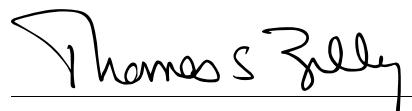
1 numbered consecutively beginning with 1; defendant's exhibits shall be numbered
2 consecutively beginning with the next multiple of 100 after plaintiff's last exhibit; any
3 other party's exhibits shall be numbered consecutively beginning with the next multiple
4 of 100 after defendant's last exhibit. For example, if plaintiff's last exhibit is numbered
5 159, then defendant's exhibits shall begin with the number 200; if defendant's last exhibit
6 number is 321, then any other party's exhibits shall begin with the number 400.

7 (8) Settlement

8 If the parties reach a settlement in principle, counsel shall notify Judge Zilly's
9 Chambers at (206) 370-8830 as soon as possible and indicate whether the Court may
10 enter a standard order that will dismiss the matter immediately, with prejudice and
11 without costs, but will provide the parties at least sixty (60) days to move to reopen in the
12 event they do not perfect their settlement.

13 (9) The Clerk is directed to send a copy of this Minute Order to all counsel of
14 record.

15 Dated this 10th day of August, 2023.

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17 Thomas S. Zilly
18 United States District Judge
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